

AMENDMENT ONE
INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF CASA GRANDE

THIS AMENDMENT, entered into 29 December 2003, Amendment Number One to JPA 02-128, AG Contract No.: KR02-1842TRN, filed with the Secretary of State under No. 25628 ("Agreement"), pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and CITY OF CASA GRANDE, acting by and through its City Council and Mayor (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-6993 to enter into this amendment and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this amendment and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

The parties desire to amend the above referenced Agreement to include the design elements in the project agreement and to correct the funding amount previously stated for the construction element of the project agreement.

THEREFORE THE AGREEMENT IS AMENDED AS FOLLOWS:

RECITAL 3 is deleted and replaced in full with the following language, in which to incorporate the design elements in the project agreement.

3. The State has approved the exchange of \$60,000.00 Highway User Revenue Funds (HURF) in Fiscal Year (FY) 2002 to the City, for the design of improvements to Trekell Road and such funds will be repaid to the State by withholding from the Central Arizona Association of Governments (CAAG) of federal funds and the obligation authority for federal funds in the amount of \$73,233.00 in FY 2002.

NO. 25628 #0 /
Filed with the Secretary of State
Date Filed: 12/29/03
Janice K. Brewer
Secretary of State
By: Wm. D. Haerewald

RECITAL 4 is added to this Amendment in which to correct the funding amounts for the construction elements in the project agreement:

4. The State has approved the exchange of \$340,000.00 HURF in FY 2003 to the City for the construction of improvements to Trekell Road, and such funds will be repaid to the State by withholding from the CAAG federal funds and the obligation authority for federal funds in the amount of \$358,546.00 in FY 2003.

II. SCOPE OF WORK

The following shall replace in full Article II.1.a:

1. The City will:

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction contemplated for Trekell Road improvements. Provide the State suitable documentation of design together with invoices.

The following language shall be added to this Amendment as new Articles II.1.b. and II.1.c.:

b. Be responsible for any additional funds required for design of the project, and for any claims for extra compensation for whatever reason. Comply with all applicable State laws, rules and regulations.

c. Invoice the State \$60,000.00 for reimbursement for the costs of design.

The Articles, II.1.b. through 1.f. from the original Agreement are re-lettered as II.1.d through II.1.h. and remain in full force and effect.

2. The State will:

The following shall replace Article II.2a. and II.2.b.:

a. Within 30 days after receipt and approval of a design invoice, remit to the City from FY 2002 HURF funds in the amount of \$60,000.00 for design.

b. Withhold from CAAG of fiscal year 2002, federal funds and the obligation authority of federal funds in the amount of \$73,233.00 for design.

The following language shall be added to this Agreement as new Articles II.2.c. and II.2.d.

c. Within 30 days after receipt and approval of construction invoices advance the City HURF funds in accordance with paragraph II.1d., f., h. as referenced and revised above, a total amount of \$340,000.00 for construction

d. Withhold from CAAG, of fiscal year 2003, federal funds and the obligation authority of federal funds in the amount of \$358,546.00 for construction.

III. MISCELLANEOUS PROVISIONS

Add 9. and 10. to III. as follows:

9. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

10. Non-Availability of Funds: Every payment obligation of State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

EXCEPT AS AMENDED HEREIN, ALL OTHER terms and conditions of the original Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF CASA GRANDE

STATE OF ARIZONA

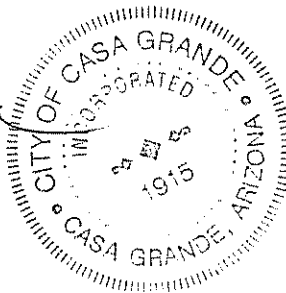
Department of Transportation

By Kenneth W. Buchanan
KENNETH W. BUCHANAN
City Manager

By Dale Buskirk
DALE BUSKIRK, Division Director
Transportation Planning Division

ATTEST:

By Gloria Leija
GLORIA LEIJA
City Clerk



RESOLUTION NO. 3368

A RESOLUTION OF THE COUNCIL OF THE CITY OF CASA GRANDE, ARIZONA, AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF EXCHANGE OF \$340,000.00 IN HIGHWAY USER REVENUE FUNDS (HURF); AND AUTHORIZING EXECUTION OF THE AGREEMENT.

NOW, THEREFORE, BE IT RESOLVED THAT the Mayor and Council of the City of Casa Grande authorize the following:

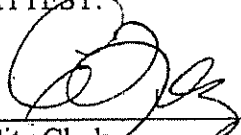
1. Entry into an intergovernmental agreement with Arizona Department of Transportation (identified in City records as C.G. Contract No. 1003-4) for the purpose of exchange of \$340,000.00 in Highway User Revenue Funds (HURF) to the City of Casa Grande for the construction of improvements to Trekell Road, for the benefit and safety of the traveling public; and
2. Execution of the above-referenced document by the City Manager.

PASSED AND ADOPTED by the Mayor and Council of the City of Casa Grande, Arizona, this 6th day of October, 2003.



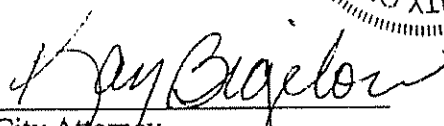
Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney



APPROVAL OF THE CITY OF CASA GRANDE ATTORNEY

I have reviewed the above referenced proposed Intergovernmental Amended Agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF CASA GRANDE and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 1st day of December, 2003.

Hay Buglow
City Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE 602.542.8855


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR02-1842TRN (JPA 02-128), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED December 17, 2003.

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

/ss

att.